

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

KENNETH MICHAEL DOUGLAS,

Plaintiff,

No. C 11-00973 JSW

v.

KATHLEEN L DICKINSON,

ORDER TO SHOW CAUSE

Defendant.

On March 2, 2011, when Petitioner Kenneth Michael Douglas (“Douglas”) filed this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. This Court may entertain a petition for habeas corpus on behalf of a person “in custody under or by color of the authority of the United States.” 28 U.S.C. § 2241(c)(1). The Court “shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.” 28 U.S.C. § 2243.

BACKGROUND

Douglas was convicted of two counts of assault with a deadly weapon and one count of attempted manslaughter, and was sentenced to a term of ten years. Douglas currently is in the custody of Respondent Kathleen L. Dickinson, Warden of the California Medical Facility in Vacaville, California.

LEGAL CLAIMS

Douglas seeks federal habeas corpus relief by way of raising a claim of ineffective assistance of counsel, thus depriving him of due process in violation of the Fifth Amendment. Liberally construed, the claims appear colorable under 28 U.S.C. § 2241 and merit an answer from Respondents.

CONCLUSION

For the foregoing reasons and for good cause shown:

1. The Clerk shall serve by certified mail a copy of this Order and the petition, and all attachments thereto upon Respondent and Respondent's attorney, the Attorney General of the State of California.
2. Respondent shall file with the Court and serve on Douglas , within 60 days of the date of this Order, an answer conforming in all respects to Rule 5 of the Rules Governing Section 2254 Cases, showing cause why a writ of habeas corpus should not be issued. Respondent shall file with the answer and serve on Douglas a copy of all portions of the administrative record that are relevant to a determination of the issues presented by the petition.
3. If Douglas wishes to respond to the answer, he shall do so by filing a traverse with the Court and serving it on Respondent within 30 days of his receipt of the answer.

IT IS SO ORDERED.

Dated: June 17, 2011


JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE